



Demonstrating Control of a Limited Liability Company

Issue:

This brief explains the verification requirement that Veteran business owners demonstrate control over a limited liability company (LLC).

(For purposes of this brief, Veteran applies equally to Service-Disabled Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulations:

38 CFR § 74.4(a) provides that “[c]ontrol means both the day-to-day management and long-term decision-making authority for the VOSB. Many persons share control of a concern, including each of those occupying the following positions: Officer, director, general partner, managing partner, managing member and manager. In addition, key employees who possess expertise or responsibilities related to the concern’s primary economic activity may share significant control of the concern. “[...[The Center for Verification and Evaluation (CVE)] will consider the control potential of such key employees on a case-by-case basis.”

38 CFR § 74.4(e) provides that “[i]n the case of a limited liability company, one or more veterans or service-disabled veterans must serve as management members, with control over all decisions of the limited liability company.”

What This Means:

- The company documentation, such as the Operating Agreement, should designate at least one Veteran who also holds an ownership interest as the “managing member” of the LLC.
- The company documentation must not provide non-Veteran members with equal or greater authority over the day-to-day management and long-term decision-making of the LLC than that of the Veteran.
- The Veteran(s) designated as the managing member(s) in the company documents must have control over all decisions of the LLC and must provide demonstrable evidence (e.g., provisions of the operating agreement) of this ability to control.
- The Veteran(s) designated as the managing member(s) in the company documents must be able to make strategic and day-to-day management decisions for the LLC without obtaining a non-Veteran’s consent and/or presence.
- The Veteran(s) designated as the managing member(s) in the company documents must be able to demonstrate the level of experience, education, and expertise commensurate with managing the applicant as contained in a résumé or other appropriate documentation. However, meeting these requirements for LLCs does not exempt the applicant from demonstrating that it meets all other control requirements outlined in 38 CFR Part 74.

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For more information about VA Small and Veteran Business Programs, visit <http://www.va.gov/osdbu>.

**VA Office of Small and Disadvantaged
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